



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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BRANDON MCFADDEN,

Plaintiff Pro Se,

-against-

NEW YORK CITY DEPARTMENT
OF CORRECTION et al.,

Defendants.
-----X

07 Civ. 11570 (WHP)

ORDER

WILLIAM H. PAULEY III, District Judge:

By application filed December 26, 2007, Plaintiff pro se Brandon McFadden ("Plaintiff") requests appointment of counsel. This case was assigned to this Court following Plaintiff's filing of a complaint on December 26, 2007.

Unlike criminal defendants, indigents filing civil actions have no constitutional right to counsel. However, 28 U.S.C. § 1915(e)(1) provides that the court may request an attorney to represent any person unable to afford counsel. In determining whether to grant Plaintiff's request for counsel, this Court must consider:

the merits of plaintiff's case, the plaintiff's ability to pay for private counsel, his efforts to obtain a lawyer, the availability of counsel, and the plaintiff's ability to gather the facts and deal with the issues if unassisted by counsel.

Cooper v. A. Sargenti Co., 877 F.2d 170, 172 (2d Cir. 1989). As a threshold matter, Plaintiff must demonstrate that his claim has substance or a likelihood of success. See Hodge v. Police Officers, 802 F.2d 58, 61 (2d Cir. 1986). In addition, in reviewing a request for counsel, the

court must be cognizant of the fact that volunteer attorney time is a precious commodity, and thus should not grant appointment of counsel indiscriminately. Cooper, 877 F.2d at 172.

A more fully developed record will be necessary before this Court can determine if Plaintiff's chances of success warrant the appointment of counsel. Therefore, Plaintiff's application is denied without prejudice to its renewal at such time as the existence of potentially meritorious claims may be demonstrated.

This Court reminds Plaintiff that the Pro Se Office is a valuable resource in assisting litigants, such as Plaintiff, who proceed in federal court without the assistance of counsel. The Pro Se Office may be contacted at:

Pro Se Office
Southern District of New York
500 Pearl Street, Rm. 230
New York, New York 10007
(212) 805-0175

Dated: January 9, 2008
New York, New York

SO ORDERED:


WILLIAM H. PAULEY III
U.S.D.J.

Copy mailed to:

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